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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/699,335	10/31/2003	Anthony J. Cafferata	J-3763	5399
28165	7590	10/31/2005		
S.C. JOHNSON & SON, INC. 1525 HOWE STREET RACINE, WI 53403-2236			EXAMINER FIDEI, DAVID	
			ART UNIT	PAPER NUMBER

3728

DATE MAILED: 10/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

T222

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/699,335	CAFFERATA ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	David T. Fidei	3728	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) 17-34 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. ____.  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>10/31/03</u> .  | 6) <input type="checkbox"/> Other: ____.                                    |

## DETAILED ACTION

### *Election/Restrictions*

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-16, drawn to a package, classified in class 206, subclass 471.
  - II. Claims 17, 18, drawn to a method of arranging blister packs, classified in class 211, subclass 1.
  - III. Claims 19-34, drawn to a display unit, classified in class 220, subclass 536.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case in the product as claimed can be used in a different process such as individually supporting a blister pack on a horizontal surface independently of other blister packages.
3. Inventions (I, II) and III are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions different modes of function or effects in that claim 19 requires pressure applied to sufficient to maintain the plurality of packages in abutting front to back alignment that is not required in any of claims 1-16. As to claims 17-18, none of the package structure of claim 19 is required.
4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

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5. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

6. In accordance with a telephone message by Ms. KRISTIN CHAPMAN, on October 26, 2005 a provisional election was made with traverse to prosecute the invention of Group I, claims 1-16. Affirmation of this election must be made by applicant in replying to this Office action. Claims 17-34 withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

7. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

***Information Disclosure Statement***

8. The information disclosure statement filed October 31, 2003 includes document numbers D477,408 directed toward an (Electrosurgical generator) and D477939 directed towards a (Backrest for a chair). These documents are not relevant to subject matter of the present invention. Therefore, the citations have been "lined-through" on the Information Disclosure form provided by applicant.

***Claim Rejections - 35 USC § 102***

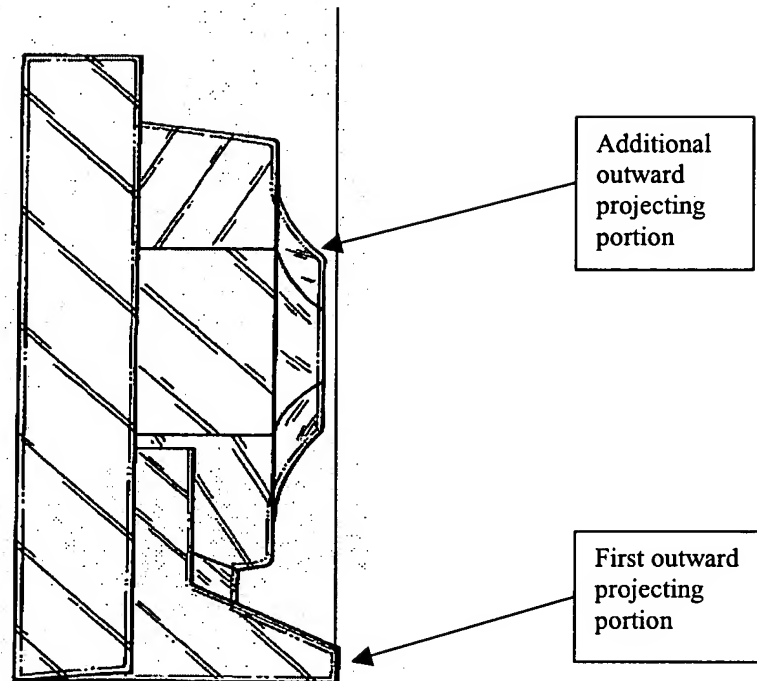
9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

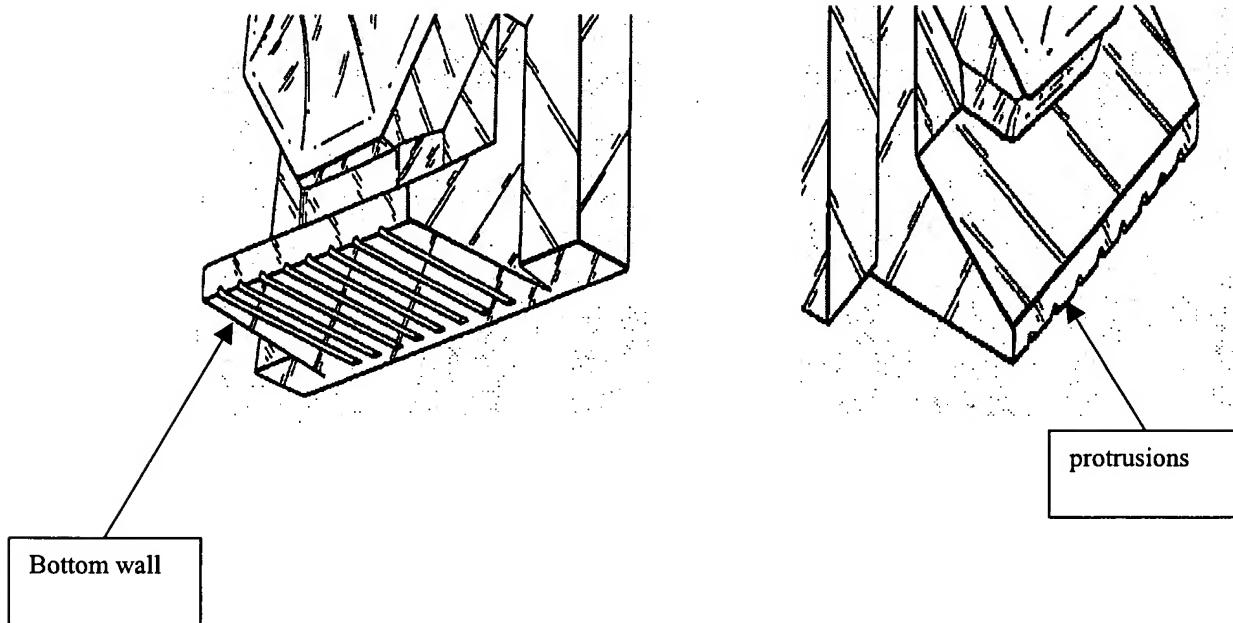
10. Claims 1-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Humphrey (Patent no. D447,408). As to claims 1 and 2 a package for containing and displaying at is disclosed comprising a back panel, and a front panel attached to said back panel, wherein said front panel comprises a blister pack formed of plastic and including a first outward projecting portion in a bottom portion of said blister pack and at least one additional outward projecting portion having a depth and shape conforming to at least a portion of said at least one article, wherein at least a portion said first outward projecting portion extends widthwise at least a substantial portion between a first side of said blister pack and a second side of said blister pack, and has a depth outward sufficient to allow said package to stand substantially upright. As shown by the figure below the depth of said at least a portion of said first outward projecting portion is equal to or greater than an outermost projecting portion of the depth of said at least one additional outward projecting portion



As to claim 3, a package is shown above according to claim 1 wherein said at least one additional outward projecting portion is continuous with said first outward projecting portion.

As to claim 4, a blister pack according to claim 2 is shown wherein said at least one additional outward projecting portion is continuous with said first outward projecting portion.

As to claim 5, a package according to claim 1 wherein said first outward projecting portion includes a bottom wall having integral therein at least two spaced apart downward protrusions, see the figure below



As to claim 6, a blister pack is shown according to claim 2 wherein said first outward projecting portion includes a bottom wall having integral therein at least two spaced apart downward protrusions. As shown above there are a plurality of protrusions in as much as is claimed.

As to claims 7 and 8, a package according to claims 1 and 2 is shown where the first outward projecting portion includes a front wall of uniform depth.

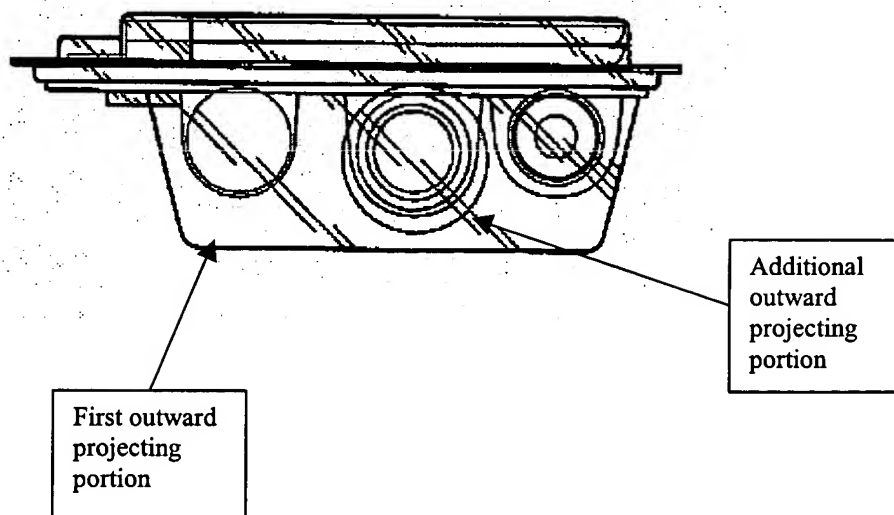
As to claims 9 and 10, one of said portions of non-uniform depth is a wall of one of said at least one additional outward projecting portion

As to claims 11 and 12, the first portion is substantially rectangular when view from the front side in as much as is claimed.

As to claims 13 and 14, the at least one additional outward projecting portion is equal in depth to the depth greatest in the first outward projecting portion and a portion of said depth of

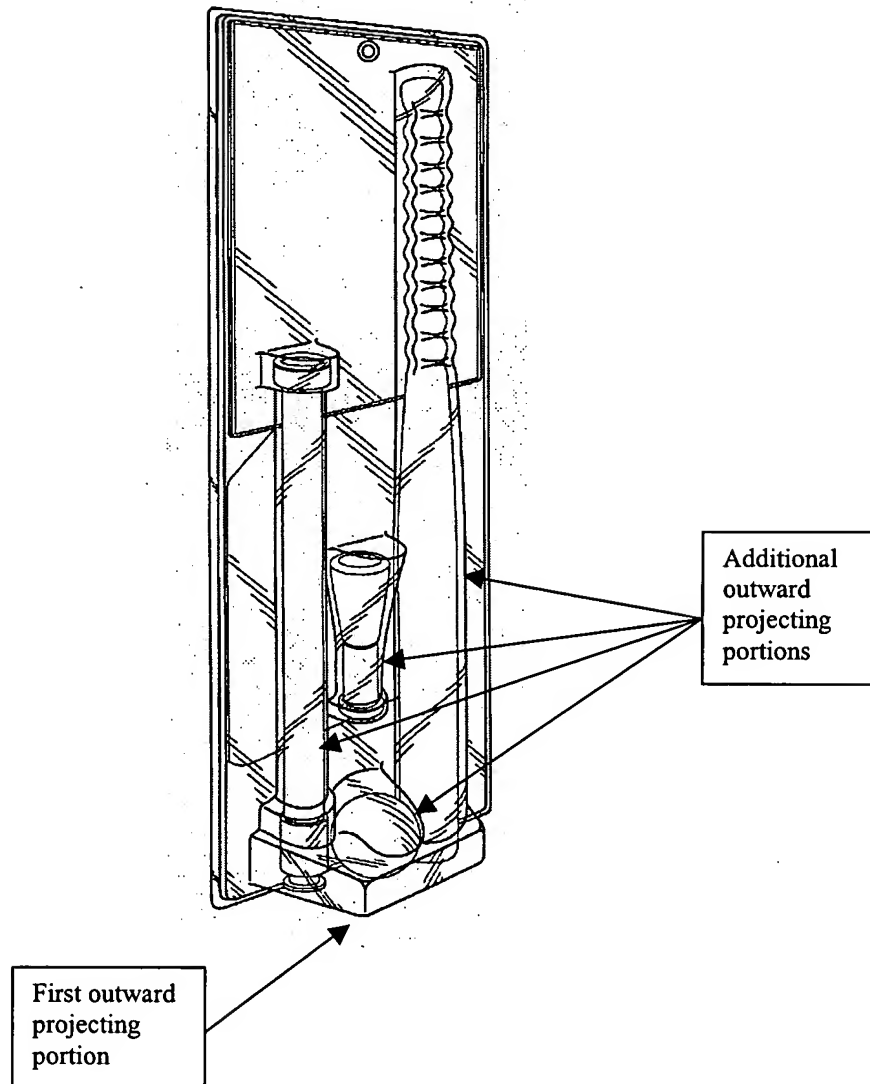
said at least one additional outward projecting portion is of lesser depth than the depth greatest in the first outward projecting portion as shown by the vertical line in the figure on page 5.

11. Claims 1-4, and 7-16 are rejected under 35 U.S.C. 102(e) as being anticipated by Udwin et al (Patent no. D467,494). As to claims 1 and 2 a package for containing and displaying at is disclosed comprising a back panel, and a front panel attached to said back panel, wherein said front panel comprises a blister pack formed of plastic and including a first outward projecting portion in a bottom portion of said blister pack and at least one additional outward projecting portion having a depth and shape conforming to at least a portion of said at least one article, wherein at least a portion said first outward projecting portion extends widthwise at least a substantial portion between a first side of said blister pack and a second side of said blister pack, and has a depth outward sufficient to allow said package to stand substantially upright. As shown by the figure below the depth of said at least a portion of said first outward projecting portion is equal to or greater than an outermost projecting portion of the depth of said at least one additional outward projecting portion





**FIG. 1**



As to claims 3 and 4, a package is shown above according to claims 1 and 2 wherein said at least one additional outward projecting portion is continuous with said first outward projecting portion.

As to claims 7 and 8, a package according to claims 1 and 2 is shown where the first outward projecting portion includes a front wall of uniform depth.

As to claims 9 and 10, one of said portions of non-uniform depth is a wall of one of said at least one additional outward projecting portion

As to claims 11 and 12, the first portion is substantially rectangular when view from the figure on the previous page in as much as is claimed.

As to claims 13 and 14, the at least one additional outward projecting portion is equal in depth to the depth greatest in the first outward projecting portion and a portion of said depth of said at least one additional outward projecting portion is of lesser depth than the depth greatest in the first outward projecting portion as shown by the vertical line in the figure on page 7.

As to claim 15 and 16, a package is shown in the figure on page 7 where said at least one additional outward projecting portions are present, on either side of the middle additional projection portion, wherein said two of said at least two additional outward projecting portions are of different depths from each other.

12. Claims 1-10, 13 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Glassman (Publication no. US 2001/0007308). As to claims 1 and 2 a package for containing and displaying at is disclosed comprising a back panel, and a front panel 12 attached to said back panel 14, wherein said front panel comprises a blister pack formed of plastic and including a first outward projecting portion (the bottom part of 12a in figure 1) in a bottom portion of said blister pack and at least one additional outward projecting portion having a depth and shape conforming to at least a portion (the top part of 12a in figure 1) of said at least one article, wherein at least a portion said first outward projecting portion extends widthwise at least a substantial portion between a first side of said blister pack and a second side of said blister pack, and has a depth outward sufficient to allow said package to stand substantially upright.

As to claims 3 and 4, a package is shown above according to claims 1 and 2 wherein said at least one additional outward projecting portion is continuous with said first outward projecting portion.

As to claims 5 and 6, two protrusions are shown in figures 1 and 5, #'s 38, 40, 76 and 78

As to claims 7 and 8, a package according to claims 1 and 2 is shown where the first outward projecting portion includes a front wall of non-uniform depth.

As to claims 9 and 10, one of said portions of non-uniform depth includes said at least one additional outward projecting portion

As to claims 13 and 14, the at least one additional outward projecting portion is equal in depth to the depth greatest in the first outward projecting portion and a portion of said depth of said at least one additional outward projecting portion is of lesser depth than the depth greatest in the first outward projecting portion as shown in figure 4.

***REPLY BY APPLICANT OR PATENT OWNER TO THIS OFFICE ACTION***

13. “In order to be entitled to reconsideration or further examination, the applicant or patent owner must reply to every ground of objection and rejection in this Office action. The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. The applicant’s or patent owner’s reply must appear throughout to be a bona fide attempt to advance the application or the reexamination proceeding to final action. A general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section. The reply must be reduced to writing (emphasis added)”, see 37 CFR 1.111 (b) & (c), M.P.E.P. 714.02.

Pointing out specific distinctions means clearly indicating in the written response what features/elements or distinctions have been added to the claim/claims, where support is found in the specification for such recitations and how these features are not shown, taught, obvious or inherent in the prior art.

If no amendments are made to claims as applicant or patent owner believes the claims are patentable without further modification, the reply must distinctly and specifically point out the supposed errors in the examiner's action and must respond to every ground of objection and rejection in the prior Office Action in the same vain as given above, 37 CFR 1.111 (b) & (c), M.P.E.P. 714.02.


The examiner also points out, due to the change in practice as affecting final rejections, older decisions on questions of prematureness of final rejection or admission of subsequent amendments do not necessarily reflect present practice. "Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c)" (emphasis mine), see MPEP 706.07(a).

#### ***Conclusion***

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David T. Fidei whose telephone number is (571) 272-4553. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Art Unit: 3728



David T. Fidei  
Primary Examiner  
Art Unit 3728

dtf  
October 28, 2005